

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE

IN RE: SURREY VACATION RESORTS,)	
INC.,)	
)	
Alleged Debtor)	
)	No. 3:15-bk-32648-SHB
)	Chapter 7
)	

AMENDED MOTION OF SURREY VACATION RESORTS, INC. FOR DISMISSAL OF
INVOLUNTARY PETITION

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on October 22, 2015, at 9:00 a.m., in Courtroom 1 C, Howard H. Baker, Jr. U.S. Courthouse, 800 Market Street, Knoxville, Tennessee.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Pursuant to Rules 1011 and 1014(a)(2) of the federal rules of bankruptcy procedure and 28 U.S.C. § 1406(a), alleged debtor Surrey Vacation Resorts, Inc. (Surrey), moves the Court to dismiss this case on the following grounds:

1. This district is not the proper venue for this case. Surrey is a Missouri corporation chartered in 1993. During the 180 days immediately preceding the filing of the involuntary petition, its corporate headquarters was been located in the Western District of Missouri, in Branson, Missouri. During that same period, its principal assets have been located in the Western District of Missouri, including but not limited to commercial real estate. During the 180 days immediately preceding the filing of the involuntary petition, the domicile, residence, principal place of business in the United States and principal assets in the United States of Surrey were located in the Western District of Missouri. Therefore, the Court must either dismiss this case or transfer it to the proper venue, the Western District of Missouri.

2. The petition was not been signed by a sufficient number of creditors qualified to file an involuntary petition under 11 U.S.C. § 303(b). Because Surrey has twelve or more creditors of the type described in Section 303(b), the petition must be signed by three qualified creditors. However, two of the three creditors who signed the petition in this case, Wahoo Ziplines TN, LLC (Wahoo) and Waitt Outdoor (Waitt), hold claims that are the subject of a bona fide dispute, and are not qualified to be petitioning creditors under Section 303(b)(1).

3. The petition was not filed in good faith. Kent Emmons, CEO and part owner of petitioning creditor Wahoo, caused Wahoo to file the petition as part of an effort by Emmons to coerce Surrey to have an affiliate of Surrey transfer a radio station Surrey to a company run by Emmons. Emmons threatened to file involuntary petitions against Surrey and others if the radio station were not transferred. After the involuntary petition was filed, Emmons said he would have this case dismissed if the radio station was transferred. As part of his efforts to pressure Surrey into transferring the assets, Emmons also created an internet website and posted false, defamatory and lewd statements about Surrey and others, resulting in the imposition of a Missouri state court injunction against Emmons, requiring him to take down the website and stop his smear campaign.

These grounds are discussed more fully in Surrey's Memorandum, filed simultaneously herewith. This motion is also supported by the Affidavit of David R. Cope and the Affidavit of Matthew Spangler, also filed simultaneously herewith.

Respectfully submitted,

/s/ M. Edward Owens, Jr.
M. Edward Owens, Jr. (BPR #007159)

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CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of September, 2015, a copy of the foregoing Amended Motion for Dismissal was filed electronically. The Amended Motion for Dismissal will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system.

/s/ M. Edward Owens, Jr.
M. Edward Owens, Jr.